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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF LOS ANGELES**

17 ROBERTO F. CHERAZO, individually, and on
18 behalf of all others similarly situated,

19 Plaintiff,

20 vs.

21 ESSENDANT CO., an Illinois corporation; and
22 DOES 1 through 10, inclusive,

23 Defendants.

Case No.: 21STCV25368

[Hon. William F. Highberger, Dept. 10]

**~~[PROPOSED]~~ ORDER AND JUDGMENT
GRANTING PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS
AND PAGA ACTION SETTLEMENT**

*[Filed with the Memorandum of Points and
Authorities, Declaration of Kane Moon, and
Declaration of Madely Nava on behalf of the
settlement administrator, and Declaration of
Roberto F. Cherazo]*

FINAL APPROVAL HEARING

Date: September 15, 2022

Time: 10:00 a.m.

Dept.: 10

FILED
Superior Court of California
County of Los Angeles
09/15/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: A. Lim Deputy

1 On May 2, 2022, this Court issued an Order Granting Preliminary Approval of Class
2 and PAGA Action Settlement. Plaintiff Roberto F. Cherazo ("Plaintiff") now seeks an order
3 granting final approval of the Class Action Settlement (collectively the "Settlement"), attached
4 to the Declaration of Kane Moon in Support of Plaintiff's Motion for Final Approval of Class
5 and PAGA Action Settlement as Exhibit 1.

6 Due and adequate notice having been given to the Settlement Class Members, as
7 defined below, and the Court having considered Plaintiff's Notice of Motion and Motion for
8 Final Approval of Class and PAGA Action Settlement ("Motion"), the supporting declarations
9 and exhibits thereto, all papers filed and proceedings had herein, and the absence of any
10 written objections received regarding the proposed settlement, and having reviewed the record
11 in the Action, and good cause appearing,

12 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

13 The Court, for purposes of this Final Order and Judgment, refers to all defined terms as
14 set forth in the Settlement.

15 The Court has jurisdiction over all claims asserted in the Action, Plaintiff, the
16 Settlement Class Members, and Defendant Essendant Co. ("Defendant").

17 The Court finds that the Settlement appears to have been made and entered into in
18 good faith and hereby approves the settlement subject to the limitations on the requested fees
19 and enhancements as set forth below.

20 Plaintiff and all Settlement Class Members, shall have, by operation of this Final Order
21 and Judgment, fully, finally, and forever released, relinquished, and discharged Defendant
22 from all Released Claims as stated in the Settlement and reproduced here:

23 The Parties shall bear their own respective attorneys' fees and costs, except as
24 otherwise provided for in the Settlement and approved by the Court.

25 Solely for purposes of effectuating the settlement, the Court finally certified the
26 following Class: All current and former non-exempt employees of Defendant who worked in
27 California at any time from July 12, 2017 through April 8, 2022.

28 No Class Members have objected to the terms of the Settlement. One Class Member

(Fernando Ochoa) has requested exclusion from the Settlement.

Class Members, other than the class member who requested exclusion from the settlement, make the following release:

Identity of Released Parties. The released parties are Defendant, and each of its former, present and future direct and/or indirect owners, dba's, parents, subsidiaries, affiliated and related companies, divisions, successors, predecessors, or assigns, and past, current and future employees, attorneys, officers, directors, shareholders, owners, agents, trustees, heirs, executors, administrators, predecessors, successors, insurers, or assigns of any of the foregoing (collectively "Releasees").

Date Release Becomes Active. The Released Claims will be released upon the Settlement's Effective Date and payment by Defendant of all funds due under the settlement. Class Members will not release the Released Claims or Released PAGA Claims until the Effective Date and payment by Defendant of all funds due under the settlement.

Claims Released by Settlement Class Members. Each and every Class Member, on behalf of himself or herself and his or her heirs and assigns, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Releasees from the following claims for the entire Class Period:

- 1) any and all claims, charges, rights, complaints, liens, demands, obligations, damages, wages, penalties, interest, debts, liabilities, costs, compensation, damages, attorneys' fees, actions, and/or causes of action that were asserted or could have been asserted based upon the facts and circumstances alleged in the Complaint and arising at any time during the Class Period in this Action, including but not limited to all state wage and hour claims (including all claims under the California Labor Code) for unpaid wages, unpaid minimum wages, unpaid overtime wages, off-the-clock work violations, failure to provide meal periods, failure to provide rest periods, unreimbursed business expenses, wage statement violations, interest, penalties, and attorneys' fees, waiting time penalties, withholding from wages and the related provisions of the Labor Code including but limited to Labor Code §§ 201-204, 210, 216, 218.6, 223, 226, 226.3, 226.7, 510, 512, 512.5, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, derivative claims under California Business & Professions Code §§ 17200 et seq., and all claims under the governing Wage Order, and Fair Labor Standards Act ("Released Claims"); and all other potential civil and statutory penalties based on or arising from the Released Claims, including but not limited to statutory, constitutional, contractual damages, costs, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, and equitable relief;
- 2) as to any Class Member who cashes their Settlement Payment, the Settlement

1 Administrator shall include language on the Settlement Payments that informs
2 the Class Members that the signing and negotiation of that check shall serve as
3 the Class Member's consent to join the Action for purposes of releasing all
4 claims arising under the Fair Labor Standards Act that are alleged in the Action,
or related to the claims stated or that could have been stated in the Action,
implicitly or explicitly; and

- 5 3) in addition, as to all Class Members employed during the Released PAGA
6 Claims Period, whether requesting exclusion from the Settlement or not,
7 claims arising under the Private Attorneys General Act of 2004, Labor
8 Code § 2698 et seq., to the extent asserted in Plaintiff's administrative
exhaustion letter submitted to the LWDA and any Complaint in this
matter (i.e., the Released PAGA Claims).

9
10 The Notice provided to the Class conforms with the requirements of California Rules
11 of Court 3.766 and 3.769, and constitutes the best notice practicable under the circumstances,
12 by providing individual notice to all Class Members who could be identified through
13 reasonable effort, and by providing due and adequate notice of the proceedings and of the
14 matters set forth therein to the Class Members. The Notice fully satisfies the requirements of
15 due process.

16 The Court finds the Gross Settlement Amount, the Net Settlement Amount, and the
17 methodology used to calculate and pay each Settlement Class Member's Allocation Amount
18 are fair and reasonable, and authorizes the Settlement Administrator to pay the Settlement
19 Payment shares to the Settlement Class Members in accordance with the terms of the
20 Settlement.

21 Defendant shall pay the total of \$455,000.00 to resolve this litigation. Defendant will
22 fund the settlement account fourteen (14) calendar days after the Effective Date. The
23 Settlement Administrator shall cause the Settlement Payments to be mailed to the Class
24 Members within fourteen (14) calendar days of the receipt of funding. Thereafter, Settlement
25 Allocation Amounts shall be distributed to Settlement Class Members shall be effected
26 pursuant to the terms of the Settlement.

27 From the Gross Settlement Amount, \$33,750.00 shall be paid to the California Labor
28 and Workforce Development Agency, representing 75% of the penalties awarded under the

terms of the Settlement and Amendment pursuant to the Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698, et seq.

The Court hereby approves an incentive payment in the amount of \$5,000.00 to Roberto F. Cherazo for his service as class representative and for his agreement to release claims.

The Court hereby confirms Kane Moon, Allen Feghali, Brett Gunther, and Julie Sohyun Oh of Moon & Yang, APC as Class Counsel.

From the Gross Settlement Fund, Class Counsel is awarded \$151,666.67 for their reasonable attorneys' fees and \$12,382.43 for their reasonable costs incurred in the Action. The fees and costs shall be distributed to Class Counsel as set forth in the Settlement. The Court finds that the fees are reasonable in light of the benefit provided to the Class.

The Court approves Settlement Administration Costs in the amount of \$20,000.00. Such costs shall be paid from the Gross Settlement Amount to ILYM Group, Inc.

The Parties are ordered to have notice of this Order and Judgment sent to all Class Members in accordance with CRC 3.771 (b) along with settlement payments issued via first class mail to all participating Class Members at their last known addresses, and to the LWDA pursuant to Labor Code § 2699(1)(3);

This Judgment is intended to be a final disposition of the above captioned action in its entirety and is intended to be immediately appealable.

This Court shall retain jurisdiction with respect to all matters related to the administration and consummation of the Settlement, and any and all claims, asserted in, arising out of, or related to the subject matter of the lawsuit, including but not limited to all matters related to the Settlement and the determination of all controversies relating thereto.

Plaintiff's Motion for Final Approval of Class and PAGA Action Settlement is hereby granted, and the Court directs that Judgment shall be entered in accordance with the terms of this Order.

The Court sets a Non-Appearance Hearing (Case Review) Re: Distribution on April 11 , 2023 at 9 a.m. in Department 10. Class Counsel is ordered to file a final report

1 and declaration regarding distribution no later than April 4, 2023

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3 **IT IS SO ADJUDGED.**

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5
6 DATE: 09/15/2022

A handwritten signature in black ink, appearing to read "W. F. Highberger", written over a horizontal line.

7 Hon. William F. Highberger

8 Judge of Los Angeles County Superior Court
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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18
6 and not a party to the within action; my business address is 1055 West Seventh Street, Suite 1880,
7 Los Angeles, California 90017. On August 23, 2022, I served the foregoing document described
8 as:

9 **[PROPOSED] ORDER AND JUDGMENT GRANTING PLAINTIFF'S MOTION FOR**
10 **FINAL APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**

11 X by placing ___ the original X a true copy thereof enclosed in sealed envelope(s)
12 addressed as follows:

13 Jason E. Barsanti
14 Brett Greving
15 **COZEN O'CONNER**
16 501 W. Broadway, Suite 1610
17 San Diego, California 92101
18 Telephone: 619-234-1700
19 Facsimile: 619-234-7831
20 *jbarsanti@cozen.com*
21 *bgreving@cozen.com*

22 *Attorneys for Defendant Essendant Co.*

23 [✓] **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The
24 envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with
25 the firm's practice of collection and processing correspondence for mailing. Under that
26 practice it would be deposited with U.S. postal service on that same day with postage
27 thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am
28 aware that on motion of the party served, service is presumed invalid if postal
cancellation date or postage meter date is more than one day after date of deposit for
mailing in affidavit.

29 X (State) I declare under penalty of perjury under the laws of the State of
30 California that the above is true and correct.

31 Executed on August 23, 2022, at Los Angeles, California.

32 Ivette Hernandez

33 Name

34 
35 Signature